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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,572	10/16/2003	Masanori Mizunuma	1419.1087	7162

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STAAS & HALSEY LLP  
SUITE 700  
1201 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER

DAGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/685,572

Applicant(s)

MIZUNUMA ET AL.

Examiner

Stephen M. D'Agosta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 2,4 and 6-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### *Information Disclosure Statement*

The information disclosure statement filed 10-16-2003 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed **that is not in the English language**. It has been placed in the application file, but the information referred to therein has not been considered. At minimum, a translated Abstract must be provided. The two Japanese documents have **not** been considered.

### *Drawings*

**Figures 1a, 1b, 9a and 9b** should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

**Claim 8** objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. **Claim 8 depends from claim 7 but it appears to be identical to claim 7.** Hence it either needs to be deleted and/or have its dependency changed (to claim 1?).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 and 9** rejected under 35 U.S.C. 102(e) as being anticipated by Yamaguchi US 6,819,259.

As per **claim 1**, Yamaguchi teaches a remote-controlled toy (title, abstract) comprising:

a transmitter having an operating section (figure 1, #2 shows transmitter/controller for ID/toy #1. Also see C5, L41-48 and C6, L2-8),  
transmitting communication data including both identification data and operational data received from the operating section (figure 3 shows the format of the signal transmitted from control device to toy which includes ID NUMBER and RIGHT and LEFT CONTROL INFORMATION) ; and

a receiver for receiving the communication data transmitted from the transmitter and setting the communication data as communication data for this receiver when the identification data included the received communication data is identical with identification data stored a storage section operation based on the operational data the communication data for this receiver (abstract teaches the receiver/toy makes a comparison to decide if the received data is intended for that toy and, if yes, carries out the operation based on said received data. Also see C3, L16-19.);

the transmitter further comprising:

a setting section for setting a transmission cycle of the communication data (see figure 6 which shows staggered transmission times and C2, L39 to C3, L15 teaches

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having different times when the devices will be able to transmit which reduces collisions/interference among the controllers/toys);

a judging section for judging whether or not the operational data inputted to the judging section is changed AND a transmission control section for transmitting no communication data when the judging section judges that the operational data inputted to the operating section not changed, and transmitting the communication data at the transmission cycle set by the setting section when the judging section judges that the operational data inputted is changed AND the receive continuing performing the current control operation until new communication data for this receiver is received (C6, L33-67 which teaches receiving data, determining if the ID is for that toy and then determining what action to take based on the control data received. The primary examiner notes that the toy will have no operational change if the ID does not match and/or if there is no new operation to perform, which reads on the claim).

As per **claim 9**, Yamaguchi teaches claim 1 wherein communication frequency the communication between the transmitter and receiver is constant (figure 6 shows the transmission of data from the different controllers (eg. 1-4) occurs at constant fixed intervals, which reads on the claim).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 3** rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi and further in view of DeAngelis US 5,885,159 and Sobota et al. US 6,346,047.

As per **claim 3**, Yamaguchi teaches claim 1 **but is silent on** wherein setting section has a switch for selecting a transmission cycle from a plurality of transmission

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cycles and sets the transmission cycle selected by the switch as the transmission cycle communication data.

**DeAngelis** teaches a method for changing the address of each toy so that it is unique to each controller unit (C8, L15-29 and figure 3, #108/110/112.

It is well known in the art to also change the frequency of the RF channel (as was disclosed in the applicant's specification too). Hence one skilled would provide for changing the cycle when each controller transmits control commands. Further to this point is **Rosenhagen** who discloses a multi-vehicle remote control system whereby an identity code is used as well as setting asynchronous command bursts (abstract) which reads on the claim as well.

It would have been obvious to one skilled in the art at the time of the invention to modify Yamaguchi, such that it has setting section has a switch for selecting a transmission cycle from a plurality of transmission cycles and sets the transmission cycle selected by the switch as the transmission cycle communication data, to provide user-configurable means for uniquely setting transmission cycles to reduce interference and/or collisions.

**Claims 5 and 10** rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi and further in view of Sobota and Rosenhagen et al. US 4,334,221.

As per **claim 5**, Yamaguchi teaches a remote-controlled toy (title, abstract) comprising:

a transmitter having an operating section (figure 1, #2 shows transmitter/controller for ID/toy #1. Also see C5, L41-48 and C6, L2-8),

transmitting communication data including both identification data and operational data received from the operating section (figure 3 shows the format of the signal transmitted from control device to toy which includes ID NUMBER and RIGHT and LEFT CONTROL INFORMATION) ; and

a receiver for receiving the communication data transmitted from the transmitter and setting the communication data as communication data for this receiver when the identification data included the received communication data is identical with

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identification data stored a storage section operation based on the operational data the communication data for this receiver (abstract teaches the receiver/toy makes a comparison to decide if the received data is intended for that toy and, if yes, carries out the operation based on said received data. Also see C3, L16-19.);

the transmitter further comprising:

a judging section for judging whether or not the operational data inputted to the judging section is changed AND a transmission control section for transmitting no communication data when the judging section judges that the operational data inputted the operating section not changed, and transmitting the communication data at the transmission cycle set by the setting section when the judging section judges that the operational data inputted is changed AND the receive continuing performing the current control operation until new communication data for this receiver is received (C6, L33-67 which teaches receiving data, determining if the ID is for that toy and then determining what action to take based on the control data received. The primary examiner notes that the toy will have no operational change if the ID does not match and/or if there is no new operation to perform, which reads on the claim),

**but is silent on** a selecting section for selecting a channel from a plurality of channels at least two transmission cycles of a long cycle and a short cycle being preset for each channel.

The primary examiner notes that Yamaguchi teaches using one channel with different times of transmission for each controller (see figure 6 which shows staggered transmission times and C2, L39 to C3, L15 teaches having different times when the devices will be able to transmit which reduces collisions/interference among the controllers/toys).

**Rosenhagen** teaches transmitting command bursts asynchronously (abstract), eg. at different times. **Sobota** teaches remote game controllers that can send on one or more channels at different times, which reads on the claim. Hence, the primary examiner notes that many different embodiments exist that use sending at different times and/or use of different RF channels.

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It would have been obvious to one skilled in the art at the time of the invention to modify Yamaguchi, such that it has a selecting section for selecting a channel from a plurality of channels at least two transmission cycles of a long cycle and a short cycle being preset for each channel, to provide user-configurable means for uniquely setting transmission channels/cycles to reduce interference and/or collisions.

As per **claim 10**, Yamaguchi teaches claim 5 wherein communication frequency the communication between the transmitter and receiver is constant (figure 6 shows the transmission of data from the different controllers (eg. 1-4) occurs at constant fixed intervals, which reads on the claim).

***Allowable Subject Matter***

**Claims 2, 4 and 6-7** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These claims recite highly detailed designs which are not found in the prior art of record.



**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Matsushiro US 6,661,351
2. Brabrand US 6,907,029
3. Barton Jr. et al. US 5,888,135
4. Landsinger et al. US 4,346,893
5. Ho US 6,439,956
6. Wong US 6,527,612
7. Lee et al. US 6,589,098
8. Stein US 4,137,522

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta  
Primary Examiner  
7-14-2005

